

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

MAXELL, LTD.,

Plaintiff,

v.

APPLE INC.,

Defendants.

Case No. 5:19-cv-00036-RWS

JURY TRIAL DEMANDED

P.R. 4-3 JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to P.R. 4-3 and the Docket Control Order (*see, e.g.*, Dkt. 46), Plaintiff Maxell, Ltd. (“Plaintiff” or “Maxell”) and Defendant Apple Inc., (“Defendant” or “Apple”) hereby file this joint claim construction and prehearing statement.

The claim terms listed below occur in U.S. Patent Nos. 6,748,317 (“the ’317 Patent”); 6,580,999 (“the ’999 Patent”); 6,430,498 (“the ’498 Patent”); 8,339,493 (“the ’493 Patent”); 6,329,794 (“the ’794 Patent”); 6,408,193 (“the ’193 Patent”); 6,928,306 (“the ’306 Patent”); 10,084,991 (“the ’991 Patent”); 7,116,438 (“the ’438 Patent”); and 10,212,586 (“the ’586 Patent”) which are asserted against Apple.

I. HIGH PRIORITY TERMS WHOSE CONSTRUCTION WILL BE MOST SIGNIFICANT TO THE RESOLUTION OF THE CASE

Maxell’s Position: Maxell believes that there are no claim dispositive terms.

Apple’s Position: Apple believes that Terms 1-12 and 14 in Section IV are potentially claim dispositive.

III. CONSTRUCTION OF THOSE CLAIM TERMS, PHRASES, OR CLAUSES ON WHICH THE PARTIES AGREE

The Parties have agreed to the constructions as set forth in the following chart:

NO.	TERM	AGREED CONSTRUCTION
1	<p>“a device connected to a server . . . said device connected to said server outputting said location information and said direction information and receiving retrieved information based on said outputted information at said server”</p> <p>’317 Patent: claim 6</p>	<p>Function: outputting said location information and said direction information and receiving retrieved information based on said outputted information at said server.</p> <p>Structure: CPU 71 and device for data communication 76 of a portable telephone and a Personal Handyphone System (PHS) terminal (Figure 10, ’317 Patent at 9:40-50); or equivalents thereof¹</p>
2	<p>“a device for getting direction information denoting an orientation of said portable terminal”</p> <p>’498: claims 1, 5, 10 ’317: claims 1, 6, 10 ’999: claims 1, 5, 6</p>	<p>Function: getting direction information denoting an orientation of said portable terminal</p> <p>Structure: a compass, gyroscope, and/or sensor such as a clinometer in conjunction with a CPU, or equivalents thereof.</p>
3	<p>“an image-instability detector”</p> <p>’493 Patent: claims 4, 6, 11</p>	<p>“a detector, such as a gyroscopic sensor or the like, capable of detecting an image instability of the electric camera”</p>
4	<p>“an image-instability of the electric camera”</p> <p>’493 Patent: claims 4, 6, 11</p>	<p>“instability caused by vertical and/or horizontal movement of the electric camera”</p>

¹ The parties agree that the claimed structure includes: (1) a CPU 71 and (2) a device for data communication 76 “of a portable telephone and a Personal Handyphone System (PHS) terminal”; or equivalents thereof.

No.	TERM	AGREED CONSTRUCTION
5	“function devices(s)” ’794 Patent: claim 1	Function: equipped with independent functions Structure: modem devices, audio communication devices and videophone devices; or equivalents thereof
6	“component device” / “component devices for performing different functions in the device” ’794 Patent: claim 9	Function: performing different functions Structure: modem devices, audio communication devices and videophone devices; or equivalents thereof
7	“a cellular telephone adapted to be used in a CDMA system, comprising” ’193 Patent: claims 1 and 7	The preamble is limiting
8	“variable amplitude amplifier” ’193 Patent: claims 1, 7	an amplifier whose output amplitude may be varied and that provides a variable gain in response to a control signal
9	“a function defining a relation between bias data and gain data stored in said memory” ’193 Patent: claim 7	a relationship between bias data and gain data stored in memory such that each gain data value has a corresponding bias data value
10	“voice signal code” “voice code signal” ’193 Patent: Claims 1, 7	The two terms have the same meaning
11	“a time zone which is set up in advance” ’306 Patent: Claims 5, 14	a duration of time or a range of hours set up in advance
12	“an authentication process for allowance to use said display apparatus” ’438 Patent: Claim 1	a process that authorizes the user to use the display apparatus

No.	TERM	AGREED CONSTRUCTION
13	“an authentication process for allowance to use said information-processing terminal” '438 Patent: Claim 4	a process that authorizes the user to use the information-processing terminal

IV. CONSTRUCTIONS OF THOSE CLAIM TERMS, PHRASES, OR CLAUSES ON WHICH THE PARTIES DO NOT AGREE

Set forth below is each party’s proposed construction of each disputed claim term, phrase, or clause, together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to the party on which it intends to rely either to support its proposed construction of the claim or to oppose any other party’s proposed construction of the claim, including, but not limited to, as permitted by law, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses.

No.	TERM	PROPOSED CONSTRUCTION	EVIDENCE
1	<p>“a device for getting location information denoting a present place of said portable terminal”</p> <p>’498: claims 1, 5, 10 ’317: claims 1, 6, 10 ’999: claims 1, 5, 6</p>	<p><u>Plaintiff’s Construction</u></p> <p>Function: getting location information denoting a present place of said portable terminal</p> <p>Structure: a wireless or cellular antenna, a GPS, a PHS, or the like; such a data receiver as an infrared ray sensor, or the like; and a CPU for analyzing received data; or equivalents thereof.</p> <p><u>Defendants’ Construction</u></p>	<p><u>Plaintiff’s Evidence</u></p> <p>’498 Patent, Abstract, 2:44-3:20, 4:6-11, 5:48-65, 6:15-38, 6:66-7:10, 8:13-22, 9:28-51, 10:11-22, Figures 1 and 4-10, and corresponding disclosures in the ’317 and ’999 specifications.</p> <p>In addition, Maxell will present expert testimony from Dr. Craig Rosenberg in support of Maxell’s proposed construction and addressing arguments presented by Apple’s expert, if any. This testimony may include, at least, an explanation of the meaning of this term in the context of the subject matter disclosed in the asserted patents, a description of the state of the technology, and how a person of ordinary skill in the art would interpret the term at the time the application for the asserted patent was filed.</p> <p><u>Defendants’ Evidence</u></p>

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